IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO. 419 OF 2004

The State of Maharashtra .. Appellant

versus

babdu @ Jitendra M. Dhukate & ors.. Respondents

...

Mr.B.R. Patil, APP for the State.

None for the respondents.

CORAM : V.M. KANADE, J

DATED : 16th September 2004.

P.C:-

1. Heard the learned APP appearing on behalf of the State.

2. The State is challenging the judgement and order passed by the Judicial Magistrate First Class, Miraj in Regular Civil Case no.22 of 1999 dated 5th November 2003. The accused were acquitted of the offences punishable u/s.325, 504 r/w sec.34 of the IPC. The prosecution case is that the complainant Sanjay Magdum was playing on the ground which was

situated on the common property of the complainant and the accused and he was fixing a cricket stump on the said property. At that time, the accused abused the complainant and his mother and accused no.2 who is the mother of accused no.1 pushed the complainants mother on the ground. When the complainant tried to intervene, the accused banged his head on the face of the complainant as a result of which his two teeth were broken.

3. The trial Court after examining the evidence of the complainant and the prosecution has come to the conclusion that the evidence on record is not sufficient to prove that the accused was responsible for the said injury. The trial Court also has observed that there was a delay in filing the FIR which was not explained by the prosecution. I have perused the evidence of PW no.5 Sujata Joshi and from that it appears that two teeth of the complainant were uprooted. Therefore, under the circumstances, it cannot be said that the said injury is a grievous injury. The view taken by the trial Court therefore, is a possible view. No reason to interfere in the said order of the trial Court.

4. Leave refused. Appeal is therefore, rejected.

V.M.KANADE, J